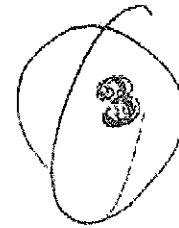


chpps
Cause No. 5:16-cv-391



CAUSE NO. 2013 - CI - 02517

MARIA TORRES MARTINEZ IN THE DISTRICT COURT
VS. BEXAR COUNTY, TEXAS
ZAVALA PLUS LLC
AKA AUTOBUSES ZAVALA PLUS 131ST JUDICIAL DISTRICT



PLAINTIFF'S SECOND AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Maria Torres Martinez, hereinafter called Plaintiff, complaining of and about Zavaia Plus L.L.C. aka Autobuses Zavala Plus called Defendants, and for cause of action shows unto the Court the following:

FILED PAID

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level-3.

II

JURY REQUEST

2. Plaintiff hereby demands trial by jury. The jury fee has been paid.

III

PARTIES AND SERVICE

3.1 Plaintiff, Maria Torres Martinez, is an individual residing in Brownsville, Cameron County, Texas.

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DONNA KAY HENNING
DISTRICT CLERK
BEXAR COUNTY
2013 JUL 12 P 4:45
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EXHIBIT

2

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3.2 Defendant ZAVALA PLUS AKA Autobuses Zavala Plus list the following registered agent:

Adriana Galvan – Constantine
3921 Kirby Drive Suite 716
Fort Worth, Texas 76155;

and service can be had by serving said person by personal service and or by mail (certified mail, return receipt requested).

IV

JURISDICTION AND VENUE

4.1 Venue is proper in San Antonio, Bexar County, Texas pursuant to Tex. Civ. Prac. & Rem. Code 15.002a)(1) because the incidents which are the subject of this pleading occurred in Bexar County, Texas.

V

CONDITIONS PRECEDENT

5.1 Pursuant to Rule 54 of the Texas Rules of Civil Procedure, all conditions precedent to Plaintiff's right to recover herein as to Defendants' liability have been satisfied.

VI

UNDERLYING FACTS

6.1 On or about March 24, 2012, Maria Torres Martinez was a passenger in a bus owned, operated and maintained by Zavala Plus LLC AKA Autobus Zavala Plus. As plaintiff was exiting the bus, the automatic step hit her right leg lacerated it, and fractured her bone, because the bus company failed to provide an adequate step down resulting in injuries to her leg and body in general. She had purchased and commenced her trip from the Defendant's office in Mexico, and was traveling to California, with a stop in San Antonio, Texas. It is during such stop that the defendant violated its appropriate duty of care to Maria Torres Martinez.

6.2 Maria Torres Martinez sustained injuries, which have affected her mental and physical well-being, caused her to incur medical expenses, caused her considerable pain and suffering and impaired her ability to work, among other things.

6.3 For these damages and injuries, Plaintiff seeks damages in excess of the minimum jurisdictional limits of this Court.

VII

PLAINTIFF'S CLAIM OF NEGLIGENCE

7.1 Defendant Autobuses Zavala Plus had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein. Additionally, Defendant Autobuses Zavala Plus is held to a higher degree of care as a common carrier which means that degree of care that would have been used by a very cautious, competent and prudent common carrier.

7.2 Plaintiff's injuries were proximately caused by defendant Autobuses Zavala Plus consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant failed to provide safe egress;
- B. In failing to provide a safe, timely adequate step down;
- C. In failing to provide a driver that had reasonable experience in providing a safe egress;
- D. In failing to provide a safe egress with automatic safety stops;
- E. In failing to provide a safe egress without any malfunctions;
- F. In failing to provide, first aid to the plaintiff;
- G. In failing to provide a safety plan for these type of injuries;

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II. In failing to provide a safety plan or a backup plan for injured passengers that are left in an unknown city without financial resources and

I. In failing to provide a follow up on injured passengers.

VIII

DAMAGES FOR PLAINTIFF, MARIA TORRES MARTINEZ

8.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Maria Torres Martinez was caused to suffer severe personal injuries, and to incur the following damages:

A. Reasonable medical care and expense in the past. These expenses were incurred by Plaintiff, Maria Torres Martinez for the necessary care and treatment of the injuries resulting from the accident complained of the herein and such charges are reasonable and were usual and customary charges for such services in San Antonio, Bexar County, Texas;

B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;

C. Physical pain and suffering in the past;

D. Physical pain and suffering in the future;

E. Physical impairment in the past;

F. Physical impairment which, in all reasonable probability, will be suffered in the future;

G. Loss of earnings in the past;

H. Loss of earning capacity which will, in all probability, be incurred in the future;

I. Mental anguish in the past; and,

J. Mental anguish in the future.

8.2 By reason of all of the above and foregoing, Defendant Autobuses Zavala Plus has damaged Maria Torres Martinez in an amount in excess of the minimal jurisdictional limits of this Court.

IX

9.1 As a result of all of the aforementioned, Plaintiff has suffered damages in an amount in excess of the minimum jurisdictional limits of this Court. Plaintiff also seeks prejudgment interest at the highest rate allowed by law.

X

PRE-JUDGMENT AND POST JUDGMENT INTEREST

10.1 Plaintiff seeks pre-judgment and post-judgment interest as allowed by law.

XI

CONDITIONS PRECEDENT

11.1 Pursuant to Rule 54 of the Texas Rules of Civil Procedure, a conditions precedent to Plaintiff's rights to recover herein and to Defendants liability have been performed or have occurred.

XII

REQUEST FOR DISCLOSURE

12.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff request that Defendant disclose, within 50 days of service of this request, the information and material described in Rule 194.2 of the Texas Rules Civil Procedure.

PRAYER

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WHEREFORE, PREMISES CONSIDERED, Plaintiff, MARIA TORRES MARTINEZ, respectfully prays that Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at a maximum rate allowed by law; post-judgment interest at the legal rate, cost of the court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

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Tel: (956) 544-7727

Fax: (956) 544-4250

By:

DG Zarate
Dolores G. Zarate
State Bar No. 00790771
Attorney for Plaintiff